IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5687 OF 2006

Mr. Shamkant Shivram Panchal ..Petitioner

Vs.

MSRT Corporation, Ratnagiri ..Respondent

Mr. M.S. Topkar for petitioner.
Mr. C.M. Lokesh h/f Mr. G.S. Hegde for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : August 28, 2006.

P.C.:

1. Heard Mr. Topkar the learned counsel for the petitioner who was working as a Conductor under the respondent-Corporation since 1986. On 18/6/2003 he was on duty on the bus plying on the route Kajirade-Panchal to Mumbai and when the flying squad checked the Bus, one passenger by name Firot Khan was found without ticket and when he was asked about the same, he stated that he had paid an amount of Rs.6/- to the petitioner but no ticket was issued to him. The petitioner was issued a charge-sheet, inquiry was conducted and he was found to be guilty. He was issued show-cause notice on 25/10/2004 proposing the

punishment of dismissal from service and at this stage he approached the Labour Court by filing Complaint (ULP) No.67 of 2004 which was dismissed by the Labour Court on 20/1/2006. The said order was challenged in Revision Application (ULP) No.53 of 2006 which was dismissed on 17/7/2006. Hence, this petition.

2. The statement of the passenger was recorded in the presence of the petitioner by the flying squad and the said passenger also appeared in the inquiry proceedings. The passenger stated before the Inquiry Officer that he gave Rs.6/- for purchasing the ticket but he was not issued the ticket. The complainant initially had accepted that the passenger was not issued the ticket though he had received the ticket amount. It was also noted by the Inquiry Officer that when the cash in possession of the petitioner was checked an amount of Rs.3/- found to be unaccounted and a ticket of Rs.6/- was collected from the tray.

3. The learned Judge of the Labour Court also noted that new defence was raised by the complainant

for the first time, namely, the ticket was issued to the passenger but the passenger lost it. The Labour Court turned down his defence and held that the inquiry was conducted properly and the charges levelled against the complainant were proved. The charges were of serious nature as per the Discipline and Appeal procedure and, therefore, the proposed punishment could not be interfered with. As per the Labour Court the respondent-Corporation did not engage in any act of unfair labour practice as alleged.

4. The Industrial Court considered the evidence before the Labour Court and the reasoning set out in the Judgment of the Labour Court. It approved the findings and held that the view taken by the Labour Court could not be termed as perverse or erroneous so as to call for interference.

5. These concurrent findings recorded by both the courts below do not suffer from any errors more so when the petitioner was a public servant and was a Conductor with more than 15 years of service, the

charge was undoubtedly proved against him and irrespective of the amount of the proposed ticket the proposed punishment of dismissal cannot be termed as shockingly disproportionate.

6. Hence, the petition is rejected summarily.

(B.H. Marlapalle,J.)